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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,573	10/12/2000	James T. Christopher	1280-0003	8261

7590 06/10/2002

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EXAMINER

CHAMBERS, TROY

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 06/10/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/689,573

Applicant(s)

GARLAND

Examiner

Troy Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Request for Reconsideration (5/3/02).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7, 8, 20,21 and 24 is/are rejected.
- 7) ☒ Claim(s) 5,9,19,22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-8, 20, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5816232 issued to Bell in view of U.S. Patent No. 5784984 issued to Lodico et al. ("Lodico"). Bell discloses a paintball loader, comprising: a housing 30; a paintball agitating drive cone 139; a motor 140; an exit tube 128; a tube extension 175; and an optical switch 144. Absent from Bell is a pivotally attached deflector arm. However, Lodico discloses such a deflector arm. Specifically, Lodico discloses a mechanical seed meter comprising a housing 10; a bowl 34; and, a resilient flap 48.

Bell and Lodico are combinable because they are from the same field of endeavor namely, article dispensing via a rotary means.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to provide the paintball loader of Bell with the resilient flap of Lodico. The suggestion/motivation for doing so would have been to maintain the projectile in its assigned cell until it is ready to be expelled or loaded. (See, Lodico, col. 3, ll. 24-35).

3. With respect to claim 1, the combination to Bell and Lodico make obvious applicant's claimed invention as described above.

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4. With respect to claim 2, Bell discloses a drive cone 139 including a plurality of fins 150. Figures 5 and 6 disclose an exit tube with a sloped portion 154 and a tube extension 175,

5. With respect to claim 3, Bell discloses a stepper motor 140 and not a DC motor as claimed by the applicant. However, the use of such motors in paintball dispensing devices is well known to those with ordinary skill in the art. (See, e.g. U.S. Patent Nos. 6305367 and 5794606).

6. With respect to claim 4, 6 and 7, Bell discloses an optical sensor detector 144.

7. With respect to claims 20 and 21, Bell discloses a plurality of outwardly spiraling fins 150.

8. With respect to claim 24, refer to the above paragraphs.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Bell and Lodico and in further view of U.S. Patent No. 5794606 issued to Deak. The combination of Bell and Lodico is described above. However, the combination does not describe a detector that includes an electro-mechanical switch. The Deak disclosure provides such an element. Specifically, Deak discloses a ram feed ammo box that includes an electro-magnetic switch 88 for automatically stopping an electric motor 60. The prior art references are combinable because they are from the same field of endeavor, namely paintball gun feed mechanisms. One of ordinary skill in the art would have found it obvious to provide the combination of Bell and Lodico with the electromagnetic switch of Deak. The suggestion/motivation for doing so would have

been to prevent similar paintball feed mechanisms from jamming. (See, Deak col. 2, ll. 48-61 and col. 3, ll. 19-25).

Response to Arguments

10. Applicant's arguments filed 4/19/02 have been fully considered but they are not persuasive.

11. In response to applicant's argument that Lodico does not disclose deflecting the seeds away from a tube extension for the specific purpose of preventing jams, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

12. In response to applicant's argument that Lodico is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, seed dispensers are "reasonably pertinent" to the dispensing of paintballs. Although the Applicant claims an invention "for use" with paintball loaders, the claims do not positively recite any element of a paintball gun or loading device. Therefore, the essence of applicant's invention is that of a feeding mechanism for a paintball or any other dispensable object. Hence, one of ordinary skill in the art would not limit him or

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her to the area of paintball dispensers but would include a wide variety of similar devices for dispersing or feeding a wide variety of objects.

Applicant further argues that Lodico does not disclose a pivotable deflector. However, it is clear from the drawings and the specification that the flexible flap attached at one end and freely moveable at the other. Hence, the flap is pivotable

Allowable Subject Matter

13. Claim 25 is allowed.

14. Claims 5, 9-19, 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. This examiner finds that a microprocessor-controlled motor in association with a paintball loader is not disclosed in the prior art.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (703) 308-5870. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (703) 306-4198.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195.



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